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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOX: KET NO.	CONFIRMATION NO
10/690,729	10/23/2003	Charles D. Jaquays	1014 7684	
75!	02/11/2005		EXAM	INER
Donald A. Kettlestrings, Esq.			MARCANTONI. PAUL D	
Suite 211 414 Hungerford Drive			ART UNIT	PAPER NUMBER
Rockville, MD 20850			1755	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Application No. Applicant(s) JAQUAYS, CHARLES D. Examiner Art Unit Paul Marcantoni 1755 Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Estatapose of time may be available under the provisors of 3 FCR 1.136(j). In orient, Roverse, may a set in the contest time fired aller Sk (s) should be the somewhater set in the provision of 3 FCR 1.136(j). In orient, Roverse, may a set in the fired aller Sk (s) should be the somewhater set into prior time the prior of the prior time to the prior of the prior time time to the prior of the prior time time time prior time to the prior of the prior time time time time prior time time time time time time time time			ih				
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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 102(a, b, and e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jaques et al. '352, Iwu '567, or Ray et al. '749.

All of the above cited references teach treating bauxite waste (ie red mud or bauxite tailings) by mixing with an acid to form a usable product that can be added later to a cementitious material and potentially used as a building material thus anticipating the instant invention. All references would appear to teach a range of pH that would also overlap the instant invention. Thus, even if not anticipated, overlapping ranges

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would have been found at least to be prima facie obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Marcantoni Primary Examiner Art Unit 1755